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**U.S. District Court
DISTRICT OF ARIZONA (Phoenix Division)
CIVIL DOCKET FOR CASE #: 2:08-cv-01832-FJM
Internal Use Only**

Total Seal, Inc. v. Performance Motorsports, Inc., et al.
Assigned to: Judge Frederick J Martone
Cause: 35:271 Patent Infringement

Date Filed: 10/07/2008
Jury Demand: Plaintiff
Nature of Suit: 830 Patent
Jurisdiction: Federal Question

Plaintiff

Total Seal, Inc.
an Arizona corporation

Pat. # 7,207,870
7,267,602

represented by **Kathi Mann Sandweiss**
Jaburg & Wilk PC
Great American Tower
3200 N Central Ave
Ste 2000
Phoenix, AZ 85012
602-248-1052
Fax: 602-248-0522
Email: kms@jaburgwilk.com
ATTORNEY TO BE NOTICED

Maria Crimi Speth
Jaburg & Wilk PC
Great American Tower
3200 N Central Ave
Ste 2000
Phoenix, AZ 85012
602-248-1000
Fax: 602-248-0522
Email: mcs@jaburgwilk.com
ATTORNEY TO BE NOTICED

Roger L Cohen
Jaburg & Wilk PC
Great American Tower
3200 N Central Ave
Ste 2000
Phoenix, AZ 85012
602-248-1000
Fax: 602-248-0522
Email: rlc@jaburgwilk.com
ATTORNEY TO BE NOTICED

V.

Defendant**Performance Motorsports, Inc.***a California corporation**doing business as*

PMI Performance Motorsports, PMI

and JE Pistons

Defendant**JE Pistons, Inc.***a corporation*

Date Filed	#	Docket Text
10/07/2008		Civil Case Opening Fee Received: \$ 350.00 receipt number 0970000000002276902 (Sandweiss, Kathi) (Entered: 10/07/2008)
10/07/2008	<u>1</u>	Notice re Complaint by TOTAL SEAL, INC. <i>Complaint and Jury Demand</i> (Sandweiss, Kathi) (Entered: 10/07/2008)
10/07/2008	<u>2</u>	Notice re Civil Cover sheet by TOTAL SEAL, INC. re <u>1</u> Other Notice <i>Civil Cover Sheet</i> (Sandweiss, Kathi) (Entered: 10/07/2008)
10/07/2008	<u>3</u>	Notice re Summons by TOTAL SEAL, INC. re <u>1</u> Other Notice <i>Summons</i> (Sandweiss, Kathi) (Entered: 10/07/2008)
10/07/2008	<u>4</u>	Notice re Summons by TOTAL SEAL, INC. <i>Summons</i> (Sandweiss, Kathi) (Entered: 10/07/2008)
10/07/2008	<u>1</u>	COMPLAINT. Filing fee received: \$ 350.00, receipt number 0970000000002276902, filed by Total Seal, Inc. ADDITIONAL CORRECTIVE ENTRY DUE TO ATTORNEY SELECTING INCORRECT EVENT FOR INITIATING DOCUMENT.(HIH) (Entered: 10/07/2008)
10/07/2008		This case has been assigned to the Honorable Frederick J. Martone. All future pleadings or documents should bear the correct case number: CV08-01832-PHX-FJM. This is a TEXT ENTRY ONLY. There is no PDF document associated with this entry. (HIH) (Entered: 10/07/2008)
10/07/2008	<u>5</u>	Notice re Notice of Availability form (HIH) (Entered: 10/07/2008)

Roger L. Cohen, #004409
Maria Crimi Speth, #012574
Kathi Mann Sandweiss, #011078
JABURG & WILK, P.C.
3200 N. Central Avenue, Suite 2000
Phoenix, Arizona 85012
(602) 248-1000

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

TOTAL SEAL, INC., an Arizona
corporation

Plaintiff,

v

PERFORMANCE MOTORSPORTS, INC.,
a California corporation dba PMI
Performance Motorsports, PMI and JE
Pistons; JE PISTONS, INC., a corporation;
JOHN DOES I-X; JANE DOES I-X; XYZ
COMPANIES I-X

Defendants.

Case No.

COMPLAINT AND JURY DEMAND

For its Complaint, Plaintiff Total Seal, Inc. ("Total Seal") alleges:

JURISDICTION AND VENUE

1. This is an action for patent infringement under 35 U.S.C. § 271, based on Defendants' infringement on Plaintiff's patent rights. This Court has subject jurisdiction under 28 U.S.C. §§ 1331, 1338(a), 2201, *et seq.*

2. Venue is proper in this District under 28 U.S.C. §§ 1391(c), 1400(b).

PARTIES

3. Total Seal is, and at all times relevant has been, an Arizona corporation having its principal place of business in Maricopa County, Arizona.

1 4. Total Seal is engaged in the business of manufacturing and selling high-
2 performance piston rings throughout the United States and elsewhere. Total Seal's
3 products are well-known in the high-performance automobile and racing industries and to
4 the public for their high quality and close tolerances, and Total Seal's business is highly
5 profitable.

6 5. Total Seal is the exclusive licensee who possesses all substantial rights in
7 and of the following United States Patents pertaining to the manufacture of piston rings
8 and similar seal assemblies (collectively, the "Total Seal Patents"): Patent No. 7,207,870
9 issued April 24, 2007, titled "Seal Assembly Manufacturing Methods and Seal
10 Assemblies Manufactured Thereby" (the "'870 Patent") and Patent No. 7,267,602 issued
11 September 11, 2007, titled "Seal Assembly Manufacturing Methods" (the "'602 Patent").

12 6. Upon information and belief, Defendant Performance Motorsports, Inc.
13 ("PMI") is, and at all times relevant has been, a California corporation having its principal
14 place of business in the State of Ohio and doing business under the names "Performance
15 Motorsports," "PMI Performance Motorsports," "PMI," "JE Pistons."

16 7. Upon information and belief, Defendant JE Pistons, Inc. ("JE") is a
17 corporation having its principal place of business in the State of California.

18 8. Upon information and belief, PMI and JE are engaged in the business of
19 manufacturing and distributing high-performance pistons and piston rings throughout the
20 United States and elsewhere, through various independent dealers, by direct sales and by
21 an interactive Internet web-site at <http://www.jepistons.com>.

22 9. Defendants John Does I-X, Jane Does I-X and XYZ Companies I-X are
23 individuals, corporations, partnerships, limited liability companies and other entities
24 whose true names, identities and relationships to the named Defendants are not now
25 known to Plaintiff.

26 10. Defendants, and each of them, have caused an act to occur in this District
27 and the State of Arizona out of which Plaintiff's claims arose.

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1 **CLAIM FOR PATENT INFRINGEMENT**

2 11. Upon information and belief, Defendants have manufactured and sold, and
3 unless restrained will continue to manufacture and sell, high-performance piston rings (the
4 "Infringing Products"), the manufacture of which is accomplished through the use of
5 processes and methods covered by the Total Seal Patents.

6 12. By their acts and contemplated acts as set forth above, Defendants have
7 infringed upon, and unless restrained will continue to infringe upon, the Total Seal
8 Patents.

9 13. Defendants have intentionally caused, and continue to intentionally cause,
10 the Infringing Products to be distributed, sold and used in the State of Arizona.

11 14. By letter dated September 19, 2007, Defendants were placed on notice of
12 the existence and substance of the Total Seal Patents. All acts of Defendants in
13 manufacturing and selling the Infringing Products after that date have been, and continue
14 to be, willful.

15 15. As a result of Defendants' acts of infringement as set forth above, Total Seal
16 has suffered, and continues to suffer, permanent and irreparable injury, in the form of lost
17 profits, loss of good will, damage to reputation and otherwise.

18 WHEREFORE, Total Seal requests Judgment against Defendants, and each of
19 them, as follows:

20 A. For an Order finding that Defendants have infringed upon the '870
21 Patent and the '602 Patent;

22 B. For an Order permanently enjoining and restraining Defendants, their
23 officers, employees and agents, and all those acting under the control of, or in concert
24 with them, from infringing upon the '870 Patent and the '602 Patent;

25 C. For damages in an amount sufficient to compensate Total Seal for
26 Defendants' acts of infringement, together with enhanced damages under 35 U.S.C. § 284;

27 D. For an award of attorney fees and costs incurred in this action under
28 35 U.S.C. § 285; and

1 E. For such other and further relief as is proper and just.

2 DATED this 6th day of October, 2008.

3 **JABURG & WILK, P.C.**

4
5 s/ Kathi Mann Sandweiss
6 Roger L. Cohen
7 Maria Crimi Speth
8 Kathi Mann Sandweiss
Attorneys for Plaintiff

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10 **JURY DEMAND**

11 Total Seal demands trial by jury as to all issues so triable.

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13 **JABURG & WILK, P.C.**

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15 s/ Kathi Mann Sandweiss
16 Roger L. Cohen
17 Maria Crimi Speth
18 Kathi Mann Sandweiss
19 Attorneys for Plaintiff
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26
27
28

Jaburg & Wilk, P.C.
Attorneys At Law
3200 N. Central Avenue, Suite 2000
Phoenix, Arizona 85012
(602) 248-1000